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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,773	05/01/2001	Almerigo Sartore	1114	3677

7590 04/18/2003  
Daniel J O'Byrne  
Via di Citille, 85  
Greve, 50022  
ITALY

EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/830,773

Applicant(s)

SARTORE, ALMERIGO

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: in page 2, the claim, for example, "according to claim 1" should not be mentioned in the specification.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "planar element" in claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 24 and 28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 24, “a planar element” is not described in the specification.

In claim 28, it is not described in the specification how the “transverse curved groove so shape” can permit downward insertion and preventing easy upward removal of a bottle within the support frame.

5. Claims 16-29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 16, it is incorrect that the portions ( the first and second portions of the arms) are connected with no sharp bends, because a sharp bend is present at the lower portion of the arms (best seen in fig. 19); and also it is incorrect that the arms have inside edges having a span that is continuously increasing along said first portion, because both the outside edges and inside edges of the arms have a span decreasing at their top ends where the arms connect to the anchoring post (see fig. 1).

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 16-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is indefinite because it cannot be determined what is "a curved space line" and "inside edges".

In claim 17, the language in the claims is not understood what applicant intend to claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

9. Claims 16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Call

(1,419,488). Call disclose, in fig. 1, a support structure for a bottle comprising a three dimensional frame, anchoring means 12, a rear anchoring post 9, two substantially symmetrical and diverging arms 15, the lower ends of said arm converging and being reciprocally joined to

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form a lower appendix 13, and inside edges of said arms having a span that is continuously increasing along a first portion and decreasing along a second portion. The first portion is directed upwardly and forwardly (examiner considers the arms include the portion 8 in fig. 1), and the second portion is directed downward and forwardly, which portions are connected and bent with substantially no sharp bends. The supporting frame further comprises a hole 16 located along the arms.

10. Claims 16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlanger et al. (5,145,138). Schlanger et al. disclose, in fig. 1, a support structure for a bottle comprising a three dimensional frame, anchoring means (screws), a rear anchoring post 22, two substantially symmetrical and diverging arms 50,52, the lower ends of said arm converging and being reciprocally joined to form a lower appendix 42, and inside edges of said arms having a span that is continuously increasing along a first portion and decreasing along a second portion. The first portion is directed upwardly and forwardly (the first portion of the arms include portion 56, and the second portion is directed downward and forwardly, which portions are connected and bent with substantially no sharp bends (examiner notes that because it does not know how are shape bends defined, thus, the portions are considered to be connected and bent with substantially no sharp bends). The supporting frame is made from a plastic plate (see col. 3, lines 1-3)

***Claim Rejections - 35 USC § 103***

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11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Call or Schlanger et al. Call or Schlanger et al. do not disclose the inner diameter of the support structure equal to approximately 45mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Call or Rogers support structure having the inner diameter size above, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

13. Claims 22, 23, 25-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlanger et al. in view of Joffe (5,513,885). Schlanger et al. do not disclose the support structure having resilient means for gripping the bottle. Joffe teaches a bottle support structure having resilient means 32 for gripping bottle. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Schlanger et al. bottle support structure with resilient gripping means, as taught by Joffe, in order to facilitate the capability to firmly hold the bottle.

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***Response to Arguments***

14. Applicant's arguments with respect to claims 16-29 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Call (1,419,488) does not teach diverging arms including a first portion which is directed upwardly and forwardly from the upper end of the anchoring post; however, that is not found convincing because, in fig. 1, Call disclose a bottle support structure comprising an anchoring post 9, a first portions 8 of diverging arms which is directed upwardly and forwardly from the upper end of the anchoring post.

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,



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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

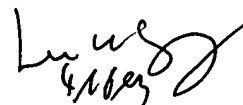
If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

April 15, 2003



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700